



POLICE DEPARTMENT

March 24, 2020

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In the Matter of the Charges and Specifications : Case No.
- against - : 2019-21168
Police Officer Nelson Reyes :
Tax Registry No. 953309 :
Strategic Response Group :

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Police Officer Nelson Reyes, while assigned to the Strategic Response Group Citywide Anti-Crime Team, on or about August 18, 2019, while off-duty, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer wrongfully struck another person, his wife.
P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

2. Said Police Officer Nelson Reyes, while assigned to the Strategic Response Group Citywide Anti-Crime Team, on or about August 18, 2019, having been involved in an unusual police occurrence or an off-duty domestic incident, wrongfully failed to remain at the scene of the incident and/or wrongfully failed to request the response of the Patrol Supervisor for the precinct of occurrence.

P.G. 212-32, Page 1, Paras. 1 & 2

OFF DUTY INCIDENTS
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE

P.G. 208-37, Page 4, Additional Data

FAMILY OFFENSES AND
DOMESTIC VIOLENCE
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE

P.G. 208-36

FAMILY OFFENSES/
DOMESTIC VIOLENCE

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 18, 2020. Respondent, through his counsel, entered a plea of Guilty to the subject charges, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find no mitigation is warranted, and recommend a penalty of the forfeiture of 35 vacation days and a one-year period of dismissal probation.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that on August 18, 2019, he confronted his wife with evidence he had obtained from her mobile telephone, which suggested that she had been looking for an apartment (T. 9, 13, 16-17). He asserted that he became concerned that she was contemplating leaving the marriage, [REDACTED], without discussing the matter with him beforehand (T. 9, 17). The confrontation took place inside their home on Staten Island while [REDACTED] (T. 7, 17). According to Respondent, his wife was not candid with him about her apartment search when he confronted her, and an argument ensued (T. 9, 17). He asserted that he was also upset with her because he had recently discovered that she had run up \$29,000 in credit card debt (T. 25-26). Respondent admitted that he lost control, "raised [his] hand and went to smack her "but [he] hit her on the chin" on the left side of her face (T. 10, 19).

Respondent testified that he was immediately remorseful, and apologized to his wife (T. 11). As she walked out of their home, he implored her to have a discussion with him (*Id.*). Respondent's wife gathered [REDACTED], and walked across the street to a store (T. 11, 20). When she returned to the house, he surrendered his house keys to her, professing that he would do anything to make her feel safe (T. 11, 20-21). Respondent then left the area and proceeded to work, where he reported for duty at approximately 1930 hours (T. 8, 11, 21). He admitted that he neither reported the incident to the patrol supervisor in his precinct of residence nor remained at the scene for the supervisor's arrival (T. 21). The incident became known to the Department the next day when his wife made a complaint (T. 22).

Respondent claimed that he began leaving his firearm at work at the end of his tour in a gesture designed to provide his wife with an enhanced sense of safety in his presence (T. 12-13).

Respondent also began residing with [REDACTED] in Manhattan, although he conceded that he makes frequent visits to his residence, sometimes spending the night (T. 7, 15-16). I note that Respondent asserted that he was providing part-time care for [REDACTED] at the time of this incident, while she suffered from [REDACTED] (T. 7, 15). He testified that he has been in "marriage counseling" since the incident, and feels that he is learning better communication skills; Respondent clarified that his wife does not attend the counseling sessions (T. 12-13, 22).

Based upon the entirety of the record, the only mitigating factor I find present is Respondent's pleas of guilty and acceptance of responsibility; the presumption of contrition associated with such declarations is belied, however, by Respondent's apparent equivocation regarding the affront to his wife's person. While admitting that he struck his wife, Respondent qualified that admission by detailing that he "raised [his] hand and went to smack her but [he] hit her on the chin" (T. 10, 19). As he explained his state of mind immediately before he struck her, he volunteered that she had amassed significant consumer debt, and as "a man with a house," he "felt some kind of way" about it (T. 26).

Based upon the foregoing, I accept Respondent's pleas of Guilty to Specifications 1 and 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined (*See Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222, 240 [1974]). Respondent was appointed to the Department on July 11, 2012. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

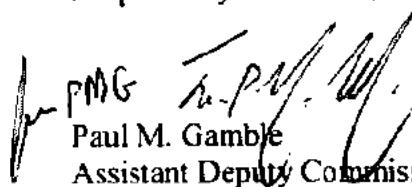
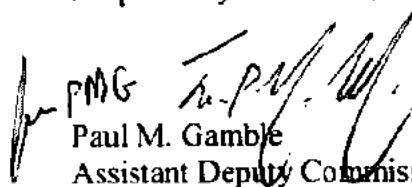
To be clear, whether Respondent's wife was preparing to leave the marital home for good reason or on a whim, he had no right to strike her. If he was upset at the debt she took on, the

proper response was a conversation, not a slap in the face. It is understandable that Respondent felt stress associated with caring for [REDACTED]; that condition, however, does not give him license to become brutish in his dealings with his family.

I find that a term of monitoring is warranted in this case. The lack of impulse control evinced by the misconduct to which he pled guilty, and his attempt to minimize his actions, albeit in respect to an off-duty family matter, raises legitimate questions about the need for monitoring to ensure that he continues to perform the functions of his assignment within the boundaries of the Patrol Guide.

Accordingly, I recommend that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one-year pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. I further recommend that Respondent forfeit 35 vacation days.

Respectfully submitted,


PMG 
Paul M. Gamble
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

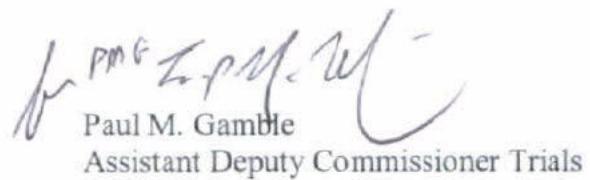
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER NELSON REYES
TAX REGISTRY NO. 953309
DISCIPLINARY CASE NO. 2019-21168

Respondent was appointed to the Department on July 11, 2012. On his three most recent annual performance evaluations, he received 4.5 overall ratings of "Extremely Competent/Highly Competent" for 2014, 2015, and 2016. He has received two medals for Excellent Police Duty, and 10 medals for Meritorious Police Duty.

In 2018, Respondent forfeited five (5) vacation days after he pled Guilty to (i) stopping a vehicle without sufficient legal authority and (ii) questioning an individual in said vehicle without sufficient legal authority.

Respondent was placed on Level 1 Force Monitoring from July 20, 2017, to July 20 2018, for having received three or more CCRB complaints in one year. In connection with the instant matter, Respondent was placed on Level 1 Discipline Monitoring on January 13, 2020; that monitoring remains ongoing.

For your consideration.



Paul M. Gamble
Assistant Deputy Commissioner Trials



DISPOSITION OF CHARGES

PD 488-142A (Rev. 1-06)

CASE NO.

2019-21168

BOOK & PAGE NO.

Page 1 of 1

PERSONNEL ORDER NO.

SPECIFICATIONS AGAINST RANK/SURNAME		FIRST	M.I.	COMMAND
Police Officer Reyes,		Nelson		Strategic Response Group
SHIELD NO. 27566	TAX REGISTRY NO. 953309		DATE APPOINTED July 11, 2012	
RANK/NAME OF COMPLAINANT Captain Idris Guven			COMMAND Special Operations Division	
DATE OF CHARGES November 14, 2019	DATE TRIAL COMMENCED February 18, 2020		DATE TRIAL CONCLUDED February 18, 2020	

TRIAL COMMISSIONER

Honorable Paul M. Gamble

SPECIFICATIONS	DISPOSITION	RECOMMENDED PENALTY PLEA <input type="checkbox"/> TRIAL <input type="checkbox"/>
1. Said Police Officer Nelson Reyes, while assigned to the Strategic Response Group Citywide Anti-Crime Team, on or about August 18, 2019, while off-duty, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer wrongfully struck another person, his wife.	PLEADED GUILTY	It is recommended that the Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one (1) year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. It is further recommended that Respondent forfeit thirty-five (35) vacation days.
2. Said Police Officer Nelson Reyes, while assigned to the Strategic Response Group Citywide Anti-Crime Team, on or about August 18, 2019, having been involved in an unusual police occurrence or an off-duty domestic incident, wrongfully failed to remain at the scene of the incident and/or wrongfully failed to request the response of the Patrol Supervisor for the precinct of occurrence.	PLEADED GUILTY	

Reviewed by Deputy Commissioner of Trials

3/24/2020
DATE

Police Commissioner's Approval:

 Approved Disapproved Other Action (Describe)

POLICE COMMISSIONER

4/28/2020
DATE